

Section 125, Title 14, CCR is amended to read:

**§125. Commercial Rock Crab Permits.**

(a) Permit Required for Take Using Trap Gear.

Effective April 1, 2005, any person using traps to take, possess aboard a vessel, use as bait, or land rock crab, as defined in Fish and Game Code section 8275(c), (~~Cancer antennarius, C. anthonyi, or C. productus~~) for commercial purposes shall have a valid general trap permit issued pursuant to Fish and Game Code Section 9001 and either a northern or southern rock crab trap permit as described in this Section that has not been suspended or revoked.

(1) Presence of Permit Holder Aboard a Vessel. At least one rock crab trap permit holder shall be on board at all times when taking, possessing aboard a vessel, using as bait, or landing rock crab using trap gear. If a support vessel is used, a rock crab trap permit holder shall be on each vessel when taking rock crab.

(A) Any person pulling or raising rock crab traps bearing a commercial fishing license number other than his/her own must have in his/her possession from the permit holder assigned to said gear written permission to pull the traps or receivers and must possess a valid northern rock crab trap permit or a southern rock crab trap permit depending on which area the traps are set as defined in Sections 125 (c)(1) and (2).

(2) Crewmembers. Any licensed commercial fisherman working on a vessel utilizing commercial rock crab trap gear shall possess a valid general trap permit that has not been suspended or revoked. Crewmembers are not required to hold a rock crab trap permit.

(3) Fishermen holding lobster operator or crewmember permits issued pursuant to Fish and Game Code Section 8254 and Section 122, Title 14, CCR, taking rock crab incidentally as authorized in Fish and Game Code Section 8250.5 during the lobster fishing season specified in Fish and Game Code Section 8251 and in lobster trap gear as defined in Fish and Game Code Section 9010, are exempt from the rock crab trap permit requirements of this Section.

(4) Exemption from Tidal Invertebrate Permit. Tidal Invertebrate permits issued pursuant to Section 123, Title 14, CCR, are not required for the commercial take of rock crab.

~~(5)~~(4) Revocation or suspension. A northern or southern rock crab trap permit may be revoked or suspended by the commission upon violation of the Fish and Game Code, or violation of regulations adopted by the Commission, by the holder thereof, his or her agent, employee, or person acting under his or her direction and control.

(b) Permit Conditions.

(1) Commercial rock crab trap permits are issued conditional upon all provisions of the Fish and Game Code and regulations of the Fish and Game Commission relating to crabs and traps.

(2) Pursuant to Fish and Game Code Section 9005, every trap or string of traps deployed for purposes of commercially harvesting rock crab shall be marked with a buoy.

(3) Timed buoy release mechanisms capable of submerging a buoy attached to a trap, commonly known as "pop-ups," shall not be used on buoy lines attached to rock crab traps, and shall not be possessed by any commercial rock crab trap permittee on any

vessel while taking or attempting to take rock crab.

(c) Permit Areas.

(1) The northern rock crab trap permit is required only in ocean waters between 42° 00' N. lat. (the Oregon/California border) and 36° 00' N. lat. (at Lopez Point, Monterey County).

(2) The southern rock crab trap permit is required only in ocean waters south of 36° 00' N. lat. (at Lopez Point, Monterey County).

(d) Northern Rock Crab Trap Permit Issuance.

(1) A person is eligible to purchase a northern rock crab trap permit if the individual meets all of the following criteria:

(A) the individual must be a licensed commercial fisherman;

(B) the individual must possess a valid general trap permit, issued pursuant to Fish and Game Code Section 9001, that has not been suspended or revoked; and

(C) each year the individual must submit to the department the application specified in Section 705 ~~a northern rock crab trap permit application form DFG 1375 (6/04), which is incorporated by reference herein,~~ and the annual permit fee specified in subsection (f).

(e) Southern Rock Crab Trap Permit Issuance and Renewal.

~~(1) Initial Permit Issuance. During the 2005-2006 permit year, any person is eligible for initial issuance of a southern rock crab trap permit if the individual meets all of the following criteria:~~

~~(A) the individual must be a licensed commercial fisherman; and~~

~~(B) the individual must possess a valid general trap permit, issued pursuant to Fish and Game Code Section 9001, that has not been suspended or revoked; and~~

~~(C) the individual must have landed a minimum of 500 pounds of rock crab utilizing trap gear between January 1, 1998 and December 31, 2003 at ports located within the southern permit area as defined in subsection (c), and as documented by fish landing receipts submitted to the department in the individual's name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046.~~

~~Individuals who hold a Nearshore Fishery Trap Endorsement issued pursuant to Section 150.03, Title 14, CCR, are exempt from this eligibility requirement.~~

~~(D) Application Deadlines for Southern Rock Crab Trap Permit. A southern rock crab trap application form DFG 1324(6/04), which is incorporated by reference herein, and the annual permit fee specified in subsection (f) must be received by the department or, if mailed, must be postmarked on or before September 30, 2005. Applications for initial issuance of a southern rock crab trap permit received by the department, or, if mailed, postmarked from October 1 through October 31, 2005 will be assessed a \$50 late fee. Applications and permit fees for initial issuance of southern rock crab trap permits received, or, if mailed, postmarked after October 31, 2005 shall be returned to the applicant unissued.~~

~~(1)(2) Southern Rock Crab Trap Permit Renewal. Southern rock crab trap permits must be renewed annually.~~

~~(2)(A) Beginning with the 2006-2007 permit year, only persons who held a valid southern rock crab trap permit during the immediately preceding permit year are eligible to obtain a permit for the following permit year, except those persons who receive a~~

transferable permit pursuant to subsection (f) below.

(3)(B) All applications as specified in Section 705 and permit fees for renewal of a southern rock crab trap permit shall be received by the department, or, if mailed, postmarked on or before April 30 of each year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(f)(3) Transferable Southern Rock Crab Trap Permit Qualification Criteria and Procedures.

### **Option 1**

(1) Beginning on November 1, 2010, or 30 calendar days after the effective date of these regulations, whichever date is later, all persons holding a valid southern rock crab trap permit that has not been suspended or revoked will have his/her permit designated as a transferable southern rock crab trap permit and may transfer his/her permit to another person who has a valid commercial fishing license issued pursuant to Section 7852 of the Fish and Game Code that has not been suspended or revoked, and a general trap permit issued pursuant to Section 9001 of the Fish and Game Code that has not been suspended or revoked.

(2) The application to transfer a permit shall be in the form of a notarized letter from the existing permit holder, or the permit holder's estate in the event that the permit holder is deceased, identifying the transferee and shall include the original, or a copy of, the transferable southern rock crab trap permit, a copy of the transferee's commercial fishing license and general trap permit, and a nonrefundable permit transfer fee of \$200 - \$2000] (see Section 705). The application shall be submitted to the department's License and Revenue Branch, 1740 N. Market Boulevard, Sacramento, CA 95834. Upon determining that the transferee is qualified to receive a southern rock crab trap permit and upon payment of all permit and transfer fees, the department shall issue a southern rock crab trap permit to the transferee that is valid for the remainder, if any, of the current permit year. The transferee may renew the southern rock crab trap permit in subsequent years pursuant to subsection (e)(2) above.

(3) Not more than [0 – 10] applications to transfer a permit shall be processed by the department during each license year (April 1 – March 31). Applications will be processed in the order received in a license year. Applications and the transfer fee received during a pervious permit year that are not processed will be returned to the applicant. The applicant may resubmit his/her application on or after the first day of the following permit year for consideration. If on any given day the number of applications received is greater than the available number of transfers, the department shall conduct a manual drawing to determine which application(s) shall be processed. This subsection shall not apply in the event of death of the permit holder. The estate of the holder of a transferable southern rock crab trap permit may renew that permit as provided for in these regulations if needed to keep it valid. The estate of the decedent may transfer the permit pursuant to the subsection (f)(2) above not later than two years from the date of death of the permit holder as listed on the death certificate.

### **Option 2**

(1) To qualify for a transferable southern rock crab trap permit, an individual shall hold a valid 2010-2011 southern rock crab trap permit that has not been suspended or revoked and have landed a minimum of [1 – 5,000] pounds of rock crab per year during any calendar year from 2005 through 2008 using trap gear, inclusive as documented by landing receipts submitted to the department in his or her name and commercial fishing license identification number pursuant to Section 8046, Fish and Game Code.

(2) Beginning on November 1, 2010, or 30 calendar days after the effective date of these regulations, whichever date is later, the department shall make an initial determination, based on department records, of which holders of valid 2010-2011 southern rock crab trap permits, that have not been suspended or revoked, meet the qualifications for a transferable southern rock crab trap permit specified in subsection (f)(1) above and shall mail notice of such determination, to the last address on record with the department, to all 2010-2011 southern rock crab trap permit holders. Each person who meets the qualifications will have his/her permit designated by the department as a transferable southern rock crab trap permit.

(3) The holder of a 2010-2011 southern rock crab trap permit who is notified by the department that he/she does not meet the qualifications for a transferable southern rock crab trap permit may submit to the department's License and Revenue Branch, 1740 N. Market Boulevard, Sacramento, CA 95834, copies of fish landing receipts that have been issued in his/her name and commercial fishing license identification number pursuant to sections 8043 and 8046, Fish and Game Code, that demonstrate he/she does meet the qualifications in subsection (f)(1) above. Such fish landing receipts and a letter requesting that his/her permit be designated as a transferable southern rock crab trap permit shall be submitted to the department on or before March 31, 2011. Any request postmarked or presented after March 31, 2011 will not be considered.

(4) The holder of a 2010-2011 southern rock crab permit not able to meet these qualification criteria or meeting them and failing to submit his/her fish landing receipts on or before March 31, 2011, pursuant to subsection (f)(3) above shall have his/her permit designated a non-transferable southern rock crab trap permit, effective with the 2011-12 license year.

(5) Beginning January 1, 2011, or 60 calendar days after the effective date of these regulations, whichever date is later, all persons holding a valid transferable southern rock crab trap permit that has not been suspended or revoked may transfer his/her permit to another person who has a valid commercial fishing license issued pursuant to Section 7852 of the Fish and Game Code that has not been suspended or revoked, and a general trap permit issued pursuant to Section 9001 of the Fish and Game Code that has not been suspended or revoked.

(6) The application to transfer a permit shall be in the form of a notarized letter from the existing permit holder, or the permit holder's estate in the event that the permit holder is deceased, identifying the transferee and shall include the original, or a copy of, the transferable southern rock crab trap permit, a copy of the transferee's commercial fishing license and general trap permit, and a nonrefundable permit transfer of \$200 - \$2000] (see Section 705). The application shall be submitted to the department's License and Revenue Branch, 1740 N. Market Boulevard, Sacramento, CA 95834.

Upon determining that the transferee is qualified to receive a southern rock crab trap permit and upon payment of all permit and transfer fees, the department shall issue a southern rock crab trap permit to the transferee that is valid for the remainder, if any, of the current permit year. The transferee may renew the southern rock crab trap permit in subsequent years pursuant to subsection (e)(2) above.

(7) Not more than [0 – 10] applications to transfer a permit shall be processed by the department during each license year (April 1 – March 31). Applications will be processed in the order received in a permit year. Applications that are not processed will be returned and may be resubmitted on or after the first day of the following permit year for consideration. If on any given day the number of applications received is greater than the available number of transfers, the department shall conduct a manual drawing to determine which application(s) shall be processed.

(8) This subsection shall not apply in the event of death of the permit holder. The estate of the holder of a transferable southern rock crab trap permit may renew that permit as provided for in these regulations if needed to keep it valid. The estate of the decedent may transfer the permit pursuant to the subsection (f)(6) above not later than two years from the date of death of the permit holder as listed on the death certificate.

(9) Upon the death of the individual to whom a non-transferable southern rock crab trap permit is issued, the permit shall become null and void.

### **[End of Options]**

#### (f) Fees.

~~(1) Northern rock crab trap permit. The department shall charge an annual fee of two hundred and fifty dollars (\$250.00).~~

~~(2) Southern rock crab trap permit. The department shall charge an annual fee of two hundred and fifty dollars (\$250.00).~~

#### (g) Appeals.

(1) Any applicant who is denied issuance of a transferable southern rock crab trap permit may appeal the denial to the department in writing describing the basis for the appeal. The appeal shall be received by the Department or, if mailed, postmarked on or before June 30, 2011. The decision of the department may be appealed in writing to the commission within 60 calendar days of the date of the department's decision.

(2) Southern Rock Crab Trap Renewal Appeals. Late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

#### (h) Fees.

(1) Northern rock crab trap permit. The department shall charge an annual fee as specified in Section 705.

(2) Southern rock crab trap permit. The department shall charge an annual fee as specified in Section 705.

#### (h)(i) Restricted Access.

A control date of January 1, 2003 is established for the purpose of considering a future restricted access southern rock crab trap fishery. Landings on or after this date may not apply toward a permit in a future restricted access program for the southern rock crab trap fishery if one is developed.

~~(i) Tidal Invertebrate permits issued pursuant to Section 123, Title 14, CCR, are not required for the commercial take of rock crab.~~

(j) Landing Receipts.

All landing receipts for rock crab required pursuant to Fish and Game Code Sections 8043 and 8047 shall indicate the species of rock crab as brown, red, or yellow, describing *Cancer antennarius*, *C. productus*, or *C. anthonyi*, respectively.

Note: Authority cited: Sections 1050 and 8282, Fish and Game Code. Reference: Sections 1050, 7852.2, 7857, 8043, 8047, 8250.5, 8275, 8282, 8284, 9000, 9001, 9002, 9005, 9006 and 9011, Fish and Game Code.

Section 125.1, Title 14, CCR is amended to read:

**§125.1. Commercial Take of Rock Crab; Size Limit; Use of Rock Crab as Bait; Incidental Take Provisions.**

(a) Rock crab, as defined in Fish and Game Code section 8275(c), less than 4 1/4 inches, measured across the carapace in a straight line through the body, from edge of shell to edge of shell at the widest part, shall not be taken, possessed, bought, sold, or used as bait.

(b) Measuring requirements. Any person taking rock crab for any commercial purpose or for use as bait shall carry a measuring device and shall measure any rock crab immediately. Undersized rock crab shall be immediately returned to the water.

(c) Incidental take. Only the following species may be taken incidentally in rock crab traps being used to take rock crab under authority of a permit issued pursuant to Section 125. All other invertebrates and finfish shall be immediately released to the water.

(1) Kellet's whelk.

(2) Octopus.

(3) Crabs, other than the genus *Cancer*.

(d) Pursuant to Fish and Game Code Section 9001.7, rock crab may be used as bait in finfish traps. However, consistent with Fish and Game Code Section 5508, rock crab may not be possessed or maintained in such a condition that their size cannot be determined. Additionally, consistent with Fish and Game Code Section 5509, rock crab may not be possessed or maintained in such a condition that the species cannot be readily identified.

(1) All rock crabs must be brought ashore and accounted for on a landing receipt pursuant to Fish and Game Code Sections 8043 and 8047 prior to being used as bait. The total pounds of all three species of rock crab to be used as bait from each landing shall be recorded in the space marked "Note Pad" on the landing receipt.

(2) Rock crabs used as bait in finfish traps as described in subsection (d) above must be accompanied by a copy of the landing receipt pursuant to Fish and Game Code Sections 8043 and 8047 demonstrating that the crab to be used as bait has been landed prior to being used as bait. Copies of all landing receipts which document the catch of rock crabs that are used as bait shall be kept onboard the fishing vessel for a minimum period of 30 calendar days from the date of landing as listed on the landing receipt.

Note: Authority cited: Section 8282, Fish and Game Code. Reference: Sections 8043, 8047, 8250.5, 8275, 8281, 8284, 9001.7 and 9011, Fish and Game Code.